



THE COMMONWEALTH OF MASSACHUSETTS  
EXECUTIVE DEPARTMENT  
STATE HOUSE • BOSTON 02133  
(617) 725-4000

DEVAL L. PATRICK  
GOVERNOR

TIMOTHY P. MURRAY  
LIEUTENANT GOVERNOR

July 19, 2007

To the Honorable Senate and House of Representatives:

I am filing for your consideration the attached legislative proposal, entitled, "An Act Providing for the Investment In and Expansion of the Life Sciences Industry in the Commonwealth."

This bill will implement a comprehensive life sciences program for Massachusetts to support and stimulate research and manufacturing, and strengthen the Commonwealth's continued leadership in life sciences. Alongside our commercial success, dedicated, passionate researchers and medical practitioners have made our Commonwealth the international center for the development of cures against diseases that afflict millions around the globe.

To remain competitive with states and nations that are investing billions of dollars in these areas, the proposed legislation will: expand and strengthen the Massachusetts Life Sciences Center by providing \$500 million in bond funding for capital projects; strengthen our world-class life sciences talent pool by appropriating \$15 million to the Massachusetts Life Sciences Investment Fund for fellowships, research grants and loans, and workforce training programs; and, establish a Life Sciences Sector Investment Incentive Program which certifies life sciences sector projects and awards tax incentives to businesses that locate or stay in Massachusetts and grow jobs and imposes a yearly evaluation to ensure that projects achieve their projected return on investment.

Accordingly, I urge your early and favorable consideration of this bill to help stimulate our economy, bring and keep researchers and resources together here in Massachusetts to make the next great discoveries in the world of medicine, and accelerate our global leadership in this field.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Deval Patrick", with a small registered trademark symbol (®) at the end.



# The Commonwealth of Massachusetts

IN THE YEAR TWO THOUSAND<sup>SEVEN</sup>

## **AN ACT PROVIDING FOR THE INVESTMENT IN AND EXPANSION OF THE LIFE SCIENCES INDUSTRY IN THE COMMONWEALTH.**

*Whereas, The deferred operation of this act would tend to defeat its purpose, which is to provide forthwith for the immediate capital improvement needs of the commonwealth, therefore it is hereby declared to be an emergency law, necessary for the immediate preservation of the public convenience.*

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

### SECTION 1.

The general court finds and declares that:

(1) promoting the economic viability and public health of the commonwealth are fundamental purposes of state government;

(2) it is imperative for the purposes of the commonwealth's economic competitiveness that the commonwealth make the investment in life sciences research and manufacturing a priority to leverage revenues and to encourage collaboration and innovation among public and private institutions involved in life sciences research and related applications;

(3) further investment in the life sciences sector will also lead to new cures and treatments which may benefit all of society;

(4) the investments of the life sciences sector are intended to support Massachusetts's global leadership in life sciences-related research, innovations, commercialization, manufacturing and employment; and

(5) the purpose of this chapter is to establish a comprehensive life sciences program for the commonwealth, which would both support and stimulate research and manufacturing in this sector.

SECTION 2. To provide for a program of capital improvements to be undertaken by the Massachusetts Life Sciences Center established under chapter 23I, the sum set forth in section 3 of this act, for the several purposes and subject to the conditions specified in this act, is hereby made available, subject to the laws regulating the disbursement of public funds, which sum is in addition to any other amounts previously appropriated for these purposes.

SECTION 3.

EXECUTIVE OFFICE FOR ADMINISTRATION AND FINANCE

*Massachusetts Life Sciences Center*

7007-9037            For capital projects to be undertaken by the Life Sciences Center, including the preparation of plans and specifications, acquisition, construction, renovation, reconstruction, alteration, improvement, demolition, expansion

and repair, of land and facilities, and for the acquisition of furnishings and equipment, all as the Life Sciences Center shall determine, for the purpose of carrying out any of its purposes set forth in chapter 23I .....\$500,000,000

SECTION 4. To meet the expenditures necessary in carrying out section 3 of this act, the state treasurer shall, upon request of the governor, issue and sell bonds of the commonwealth in an amount to be specified by the governor from time to time but not exceeding, in the aggregate, \$500,000,000. All bonds issued by the commonwealth as aforesaid shall be designated on their face, Life Sciences Center Capital Improvement Loan Act of 2007, and shall be issued for a maximum term of years, not exceeding 30 years, as the governor may recommend to the general court under section 3 of Article LXII of the Amendments to the Constitution. All such bonds shall be payable not later than June 30, 2042. All interest and payments on account of principal on these obligations shall be payable from the General Fund. Bonds and interest thereon issued under this section shall be general obligations of the commonwealth.

SECTION 5. In carrying out section 3 of this act, in addition to its powers under chapter 23I, the Massachusetts Life Sciences Center may enter into such contracts or agreements as the Center may determine to be necessary or desirable to carry out its purposes under chapter 23I and section 2 of this act with other state, local or regional public agencies or authorities, and such agencies and authorities are hereby authorized to enter into any such contracts or agreements with the Center as may be necessary or desirable to permit the Center to carry out its purposes under chapter 23I and section 3 of this act. The agreements may relate to such matters as the Center shall determine including, without limitation, the acquisition of real and personal property or any interest therein, and the design, layout, construction, reconstruction or management of construction of all or any portion of such projects. In relation to any such agreements between

the Center and other state agencies or authorities, the Center may advance monies to the agencies or authorities, without prior expenditure by the agencies or authorities, and the agencies and authorities may accept monies necessary to carry out such agreements; provided, however, that (i) the Center shall certify to the comptroller the amounts so advanced; (ii) such agreements shall contain provisions satisfactory to the Center for the accounting of such monies as expended by the agency or authority; and (iii) all monies not expended under any such agreement shall be credited to the account of the Center from which they were advanced.

SECTION 6. Notwithstanding any general or special law to the contrary, 10 days after the effective date of this act, the comptroller shall make a one-time transfer of \$15,000,000 from the General Fund to the Massachusetts Life Sciences Investment Fund as established in section 5 of chapter 23I of the General Laws. The transfer shall be effective June 30, 2007.

SECTION 7. Chapter 23A of the General Laws is hereby amended by adding after section 62 the following section:-

Section 63. Massachusetts Life Sciences Sector Incentive Program

(a) Definitions.

As used in section 63, the following words shall, unless the context clearly requires otherwise, have the following meanings:

“Affiliate”, any business which directly or indirectly controls or is controlled by or is under direct or indirect common control with another business, including, but without limitation, any

business with whom a business is merged or consolidated, or which purchases all or substantially all of the assets of a business.

“Business”, a business corporation, partnership, firm, unincorporated association or other entity engaging or proposing to engage in economic activity within the commonwealth, and any affiliate thereof, which is, or the members of which are, subject to taxation under chapter 62 or chapter 63.

“Business incubator”, a facility which: (i) provides small units of space, shared support services, or financing and management assistance to new and established businesses; or (ii) is created and operated for the principal purpose of addressing conditions of unemployment and economic distress by encouraging the creation of new businesses and improving their ability to survive and grow.

“Certified life sciences project”, a project that has been approved by the secretary of housing and economic development for participation in the life sciences sector incentive program pursuant to the provisions of this section.

“Control”, the power to direct the management and policies of a business or a facility thereof, directly or indirectly, through the exercise of voting rights, by contract, or otherwise.

“Facility”, the physical location, in real property owned or leased by a life sciences sector business, of a commercial or industrial activity, division or component controlled by a life sciences sector business, or any real estate project which involves the construction or renovation of real property to serve such purpose, or any combination of the foregoing, at which are

employed, or are projected to be employed, permanent full-time employees of a life sciences sector business.

“Life sciences”, advanced and applied sciences, including but not limited to, regenerative medicine, biotechnology, biopharmaceuticals, nanotechnology, and medical devices.

“Life sciences sector business,” a life sciences business located in the commonwealth and engaged in research, development or manufacturing.

“Life sciences sector incentive program” or “LSSIP”, a program designed to promote increased life sciences sector development and expansion in the commonwealth, to be administered by the department of business development.

“Life sciences project”, that portion of a life sciences sector business consisting of a new or expanded facility that in its entirety, as of the project proposal date, is located in the commonwealth and that:

- (i) increases the number of permanent full-time employees employed by the life sciences sector business within the commonwealth; and
- (ii) is not a replacement or relocation of permanent full-time employees employed by the life sciences sector business at any other facility located within the commonwealth;

and provided that in the case of a facility to be located within the commonwealth after the project proposal date, the term “project” shall refer only to a facility which is: (1) the first facility of the life sciences sector business to be located within the commonwealth; or (2) a new facility of such business and not a replacement or relocation of an existing facility of such life sciences sector

business located within the commonwealth or expansion of an existing facility of the life sciences sector business which results in an increase in permanent full-time employees.

“Municipality”, a city or town in the commonwealth or, in a case in which 2 or more cities or towns agree to act jointly for some purpose hereunder then, collectively, all cities and towns participating in such a collaborative agreement.

“Permanent full-time employee”, an individual who: (i) at the inception of the employment relationship does not have a termination date which is either a date certain or determined with reference to the completion of some specified scope of work; (ii) works no fewer than a minimum number of weekly hours as may be specified by the department by rule or regulation and (iii) receives employee benefits at least equal to those provided to other full-time employees of the life sciences sector business. The term “increase in the number of permanent full-time employees of the life sciences sector business employed by and at the project” shall be determined with reference to this definition.

“Project proposal”, a proposal submitted by a life sciences sector business to the department of business development pursuant to section 63 for designation of a project as a certified life sciences project that meets the following requirements: (i) the proposal is submitted in a timely manner as determined by the department, in such form and with such information as is prescribed by the department, supported by independently verifiable information and signed under the penalties of perjury by a person authorized to bind the life sciences sector business; (ii) the proposal includes specific targets by year of the number of additional or retained full time employees, the projected salaries for those employees, and the projected taxes generated pursuant to chapter 62 by those full time employees for each of the years for which the project

may receive benefits pursuant to chapters 62, 63, or 64H; (iii) in the case of a project which as of the project proposal date is already located in the commonwealth, such projected increase shall not be less than 25 percent over the subsequent 5-year period; and (iv) in the case of a project which is a new facility within the meaning of clause (ii) of the definition of life sciences project, such proposal shall include, in addition, the number of permanent full-time employees employed by the life sciences sector business at other facilities located in the commonwealth.

“Project proposal date”, the date on which a project proposal is received by the department.

“Real estate project”, real property which, at a specified date subsequent to the project proposal date, there shall be initiated construction or renovation activity which, when completed, will result in an increase in the assessed value of such real property of at least 100 percent over the assessed value of such real property as of the project proposal date; provided, however, that in the case of a real estate facility which is a business incubator facility and which is designated to be a certified life sciences project pursuant to section 63, each business which executes a binding lease for space in such incubator facility subsequent to the date at which the construction or renovation activity begins shall be eligible for designation in its own right as a certified life sciences project pursuant to section 63.

“Return on investment,” the tax pursuant to chapter 62 generated by permanent full-time employees of a life sciences project, which are either new or maintained because of a project, over the period for which project benefits are received.

(b) Powers and Duties.

(1) The department shall administer the life sciences sector incentive program and, in so doing, shall be empowered to exercise the following powers and duties:

(i) promulgate rules and regulations and prescribe procedures to effectuate the purposes of section 63;

(ii) review applications from life sciences sector businesses;

(iii) certify projects for participation in the life sciences sector incentive program and establish regulations for evaluating the proposals of such projects;

(iv) assist life sciences sector businesses in obtaining state and federal resources and assistance for such businesses within the commonwealth;

(v) provide appropriate coordination with other state programs, agencies, authorities, and public instrumentalities to enable activity within the life sciences sector to be more effectively promoted by the commonwealth;

(vi) monitor the implementation and operation of the life sciences sector incentive program; and

(vii) conduct a continual evaluation of the projects certified for participation in the life sciences sector incentive program.

(2) The director of the Massachusetts Life Sciences Center shall designate a staff person who shall serve as a liaison to the department and who shall regularly consult with the director of the department of business development and coordinate the efforts of the Center and department to further the purpose of this act.

(3) The department shall annually submit to the governor, the senate and the house ways and means committees, and the joint committee on economic development and emerging technologies, within 90 days after the end of its fiscal year, a complete report detailing all projects certified under the LSSIP.

(4) Two years after the project is certified as a LSSIP, and every 2 years thereafter, the department shall prepare a report which evaluates the relative effectiveness of the LSSIP, and shall make recommendations to the secretary of housing and economic development as necessary or advisable to improve such effectiveness. Each such report shall be made available to the senate and house ways and means committees and to the joint committee on economic development and emerging technologies.

(c) Certified life sciences projects; proposals.

(1) The department may from time to time designate 1 or more projects as certified life sciences projects, and take any and all actions necessary or appropriate thereto, upon completion of the following:

(i) receipt by the department of a project proposal requesting such designation from the life sciences sector business, which includes the following:

(A) a workable plan, with precise goals and objectives, by which the life sciences sector business proposes to achieve the return on investment, that is projected, including an estimate for every year of the number of permanent full-time employees retained or added, the average salaries of those employees, the projected taxable income pursuant to chapter 62 generated by those employees, the year the business expects to add or retain the employees, and the method by

which the business shall employ aggressive affirmative action goals, objectives and identification and recruitment techniques to attain new employees;

(B) documentation regarding an agreement, if any, between the life sciences sector business and area banking institutions by which the life sciences sector business agrees to establish 1 or more accounts in such banks and such banks agree to commit a specified percentage of the funds deposited in the accounts for loans made thereby to businesses pursuant to the Massachusetts capital access program established pursuant to section 57 of chapter 23A;

(C) if appropriate, documentation in the proposal that the project is a certified economic development incentive program project, pursuant to section 3F of chapter 23A;

(D) request for a designation of the project as a certified life sciences project for a specified number of years, which shall be not less than 5 years nor more than: (i) 20 or (ii) the number of years remaining on the duration of the designation of the project as a certified economic development incentive program project, pursuant to section 3F of chapter 23A, whichever is less; and

(ii) findings made by the department, based on the project proposal, documents submitted therewith, and such additional investigation as the department shall make, and incorporate in its approval, that:

(A) the project proposal complies with the definition, all other applicable statutory requirements, and such other criteria that the department may prescribe from time to time; and

(B) the project as described in the proposal, will, if certified, achieve a projected return on investment, as specified, over the period for which it receives benefits as a certified project.

(2) A certified life sciences project shall retain its certification for the period specified by the department in its certification decision, unless such certification is revoked prior to the expiration of such specified period; provided, however, that such specified period shall be not less than 5 years (unless earlier revoked) from the date of certification nor more than: (i) 20 years from such date; or (ii) the number of years remaining on the duration of designation of the project as a certified project, including any renewals thereof, whichever is less. The department shall determine each year, beginning with the year after a project receives certification and for every year for which the project receives benefits, whether the project has satisfactorily met the specific targets by year of the number of additional or retained full time employees, the projected salaries for those employees, and the projected taxes generated pursuant to chapter 62 by those full time employees.

The certification of a project may be revoked only by the secretary of housing and economic development after an independent investigation and determination that representations made by the life sciences sector business in its project proposal are materially at variance with the conduct of the life sciences sector business subsequent to the certification; provided, however, that the department of business development shall review such certified life sciences project at least once every year; provided, further, that where the actual return on investment is less than 70 percent of the return on investment projected in the project proposal, then this shall be deemed a material variance for the purposes of a revocation determination.

A notice of decertification shall specify the date on which the decertification is effective, which may be the date of such notice or any earlier date on which the secretary of housing and economic development determines that the material variance commenced. In the event of such decertification, the commissioner of revenue shall, as of the effective date of the decertification, disallow any credits, exemptions or other tax benefits as may have been allowed by the original certification of tax benefits pursuant to this section. In addition, any credits allowed pursuant to the certification under this section shall be recaptured in a manner similar to that provided under section 31A of chapter 63 as would apply when property is disposed of or ceased to be in qualified use before the end of its useful life or, if applicable, before the end of the year in which the credit is to be taken. In the event that the original certification allowed sales and use tax exemptions under subsection 6(s) of chapter 64H, the purchaser shall accrue use tax as of the date of the decertification on a portion of the sales price on which exemption was claimed that is proportionate to the remaining useful life of the property. Nothing in this section shall limit any other legal remedies available to the commonwealth against the life sciences sector business. Annually, on or before the first Wednesday in December, the department shall file a report detailing its findings of the review of all certified life sciences projects that it evaluated in the prior fiscal year to the commissioner of revenue and to the joint committee on taxation and the joint committee on economic development and emerging technologies.

(3) The department shall evaluate and either grant or deny any project proposal within 90 days of its project proposal date.

(d) Eligibility for tax benefits.

A certified life sciences project may be eligible for 1 or more of the tax benefits made available to life sciences projects under chapter 62, chapter 63 and chapter 64H only to the extent specified in a certification from the secretary of housing and economic development and the secretary of administration and finance. These tax benefits shall not be available to any certified life sciences project unless expressly granted by the secretaries in writing. The department of business development shall estimate in writing the tax cost of extending 1 or more benefits to a proposed project before certification, as approved in writing by the commissioner of revenue, based on reasonable projections of project activities and costs.

SECTION 8. Section 3 of chapter 23I of the General Laws is hereby amended by striking out subsection (b) and inserting in place thereof the following subsection:-

(b) The Center shall be governed and its corporate powers exercised by a board of directors consisting of the secretary of administration and finance or her designee; the secretary of housing and economic development or his designee; the president of the University of Massachusetts or his designee; 4 members who shall be appointed by the governor, 1 of whom shall be a physician licensed to practice medicine in the commonwealth and affiliated with an academic medical center, 1 of whom shall be a chief executive officer of a Massachusetts based life sciences corporation which is a member of the Massachusetts Biotechnology Council, 1 of whom shall be a researcher involved in the commercialization of biotechnology, pharmaceuticals or medical diagnostic products and 1 of whom shall be a venture capitalist, with significant experience in the life sciences sector. Each appointed member shall serve a term of 5 years. The secretary of housing and economic development shall serve as chair of the board. Any person appointed to fill a vacancy in the office of a member of the board shall be appointed in a like

manner and shall serve for only the unexpired term of such member. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor for cause.

The terms of all members appointed to the board of directors of the Life Sciences Center in 2006 under the auspices of chapter 123 of the acts of 2006 shall be terminated upon the effective date of this act. All such appointed board members terminated herein shall be eligible to be reappointed by the governor.

SECTION 9. Subsection (c) of section 3 of chapter 23I is hereby amended by striking out at the beginning of the first sentence the word "Three" and inserting in place thereof the following word:- "Four".

SECTION 10. Subsection (a) of section 4 of chapter 23I is hereby amended by adding after paragraph (29) the following paragraph:-

(30) to conduct a planning process for the implementation of the Life Sciences Center Capital Improvement Loan Act of 2007.

SECTION 11. Subsection (b) of section 5 of chapter 23I is hereby amended by striking out at the end of clause (2) the words " ; provided, however, that said administrative and operational expenses shall not exceed 15 per cent of the total assets of the fund in any one fiscal year ;"

SECTION 12. Section 5 of chapter 23I is hereby amended by striking out subsection (c) and inserting in place thereof the following subsection:-

(c) The fund shall be held and applied by the Center, subject to the approval of the board, to make qualified investments, grants, research and other funding, and loans, designed to advance the following public purposes: (1) to stimulate increased financing for the expansion of research and development in the areas of life sciences, nano-technology, biotechnology and stem cell research in the commonwealth by leveraging private financing for highly productive state-of-the-art research and development facilities, equipment and instrumentation and by providing financing related thereto including, without limitation, financing of the construction or expansion of such new facilities; (2) to make targeted investments, including research funding, and funding for the development of devices and drugs, in the areas of life sciences, nano-technology, biotechnology and stem cell research and to spur manufacturing activities for new or existing advanced technologies and life sciences in the commonwealth; (3) to make matching grants to universities, colleges, public instrumentalities, companies and other entities to induce the federal government, industry and other grant-funding sources to fund the expansion of research and development in the areas of life sciences, nano-technology, biotechnology and stem cell research in the commonwealth, and to thereby serve to increase and strengthen the commercial and industrial base of the commonwealth and the economic development and employment opportunities related thereto; (4) to provide bridge financing to universities, colleges, public instrumentalities, companies and other entities in anticipation of the receipt of grants of the type described in clause (2) awarded or to be awarded by the federal government, industry or other sources; (5) to provide fellowships and grants; (6) to provide work force training grants to

prepare individuals for life sciences careers; and (7) to otherwise further the public purposes set forth in this act.

SECTION 13. Section 5 of chapter 23I is hereby amended by adding the following subsection:-

(h) The Life Sciences Center and the board shall be advised by a 10-member advisory committee, whose members shall consist of individuals appointed by the governor and who are active members of the Massachusetts Life Sciences Collaborative, or any successor organization thereto. Half of the members shall initially serve for a term of 3 years and half of the members shall serve for a term of 4 years. Each member, thereafter, shall serve for a term of 3 years. Any person appointed to fill a vacancy in the office of a member of the committee shall be appointed in a like manner and shall serve for only the unexpired term of such member. Any member shall be eligible for reappointment. Any member may be removed from his appointment by the governor for cause. The members of the committee shall serve without compensation, but each member shall be entitled to reimbursement for his actual and necessary expenses incurred in the performance of his or her official duties. The duties of the advisory board shall be to advise concerning issues related to: research in the life sciences; development of products and the efficacy of the public and private initiatives to further product development in the life sciences; commercialization of biotechnology, pharmaceuticals, medical diagnostic products or such other areas within the life sciences; and any other such area as is requested by the board of the Life Sciences Center.

The advisory committee shall not be a state agency for the purposes of chapter 268A and shall not be subject to section 11A½ of chapter 30A or chapter 66.

SECTION 14. Section 6 of chapter 62 of the General Laws is hereby amended by adding after subsection (l) the following subsection:-

(m) Life Sciences Investment Incentive Tax Credit

(1) A taxpayer subject to tax under this chapter, which operates a certified life sciences project as defined in section 63 of chapter 23A, may take a credit against the taxes imposed by this chapter, to the extent provided in a certification pursuant to section 63 of chapter 23A, in an amount equal to 10 percent of the cost of qualifying property used exclusively in the commonwealth in such project. Qualifying property shall be tangible personal property and other tangible property including buildings and structural components of buildings acquired by purchase, as defined under Section 179(d) of the Code, as amended and in effect for the taxable year, but not including property that is taxable under Chapter 60A, provided, however, that such property must be depreciable under section 167 of the Code and have a useful life of 4 years or more. If such property is disposed of or ceases to be in qualified use before the end of its useful life or before the end of the year in which the credit is to be taken, the recapture and related provisions of subsection (e) of section 31A of chapter 63 shall apply. A taxpayer taking a credit allowed under this subsection (m) may not take the credit allowed by subsection (g) except to such extent, not to exceed 2 percent of the cost of any qualifying property, as may be provided in a certification pursuant to section 63 of chapter 23A.

A credit is allowed under this section only to the extent that the taxpayer files the application with the department of business development, in a form as may be determined by the department, within 1 year after the initial project certification pursuant to section 63 of chapter 23A.

The department may certify that property eligible for the credit is a certified life sciences project as defined in section 63 of chapter 23A, and that the certified life sciences project reasonably satisfies the return on investment projections specified in the original project proposal as defined in section 63 of chapter 23A. Based upon the information provided in the application and its own independent investigation, the department shall determine whether the certified life sciences project is in compliance with the definition of certified life sciences project and whether the project has a reasonable chance of completing the return on investment as advanced in the initial proposal as certified by the department. If the department determines that the certified life sciences project is no longer in compliance, then the secretary of housing and economic development shall revoke certification of the project as provided in section 63 of chapter 23A and shall provide notification of decertification to the commissioner of revenue. Nothing in this section shall limit the authority of the commissioner to make adjustments to a taxpayer's liability upon audit. Nothing in this section shall limit any other legal remedies available to the commissioner of revenue or the commonwealth against the life sciences sector business.

(2) Any taxpayer entitled to a credit under this section for any taxable year may carry over and apply to its tax for any 1 or more of the next succeeding 10 taxable years, the portion, as reduced from year to year, of those credits which exceed the tax for the taxable year; provided, however, that in no event shall the taxpayer apply the credit to its tax for any taxable year beginning more

than 10 years after the certified life sciences project ceases to qualify as such under the provisions of chapter 23A.

(3) The commissioner of revenue shall promulgate such rules and regulations as are necessary to implement the provisions of this section. Such rules and regulations may provide the adjustment of intercompany prices and elimination of intercompany transactions to ensure that all amounts upon which the credit is based reasonably reflect fair market value. In addition, such rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

(4) In the event that such credit allowed to a certified life sciences project under this subsection, or such credit as may be allowed under subsection (g) as limited in this subsection, exceeds the tax otherwise due under chapter 62, the balance of such credit shall, at the option of the taxpayer, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, then the credit carryover provisions of paragraph (2), and of subsection (g)(2), do not apply.

SECTION 15. Section 6 of chapter 62 of the General Laws is hereby amended by adding after subsection (m), the following subsection:-

(n) Certified Life Sciences Project User Fee Credit

(1) As used in this section, the following words shall, unless the context otherwise requires, have the following meanings:

“Primarily”, more than 50 percent.

“Research and development costs”, in-house research expenses within the meaning of section 41(b)(2) of the Code.

“User fees”, the monetary amount actually paid by a certified life sciences project to the U.S.F.D.A. that constitutes the fee due upon the submission of a human drug application or supplement pursuant to 21 U.S.C. § 379h(a)(1) for a human drug, the research and development costs of which, were primarily incurred in the commonwealth.

“U.S.F.D.A.”, the United States Food and Drug Administration.

(2) Except as otherwise limited by paragraph (e), there may be allowed to any certified life sciences project, as defined by section 63 of chapter 23A, as a refundable credit against the tax liability imposed under this chapter an amount equal to 100 percent of the cost of user fees paid by such certified life sciences project, to the extent provided in a certification pursuant to section 63 of chapter 23A.

(3) A certified life sciences project shall claim the credit in the taxable year in which its application for the licensure of an establishment to manufacture the human drug in the commonwealth is approved by the U.S.F.D.A.

(4) A credit allowed under this section may be taken only after the taxpayer completes an application signed by an authorized representative of the applicant, and files the application with the department of business development within 1 year after the initial project certification pursuant to section 63 of chapter 23A.

(5) In the event that such credit allowed to a certified life sciences project exceeds the tax otherwise due under chapter 62, the balance of that credit shall be refundable to the taxpayer for the taxable year in which the credit is claimed.

(6) The deduction from gross income that may be taken with respect to any expenditures qualifying for the credit under this section shall be disallowed to the extent of the credit.

(7) Only user fees paid by a certified life sciences project to the U.S.F.D.A. on or after the effective date of this section are eligible for the credit.

SECTION 16. Section 30 of chapter 63 is hereby amended by adding after paragraph 15 the following paragraph:-

(16) Notwithstanding the last sentence in paragraph (5)(b) of this section, losses sustained in any taxable year by a certified life sciences project may, to the extent provided in a certification pursuant to section 63 of chapter 23A, be carried forward for not more than 15 years and may not be carried back.

SECTION 17. Chapter 63 of the General Laws is hereby amended by adding after section 31L the following section:-

Section 31M. Certified Life Sciences Project User Fee Credit

(a) As used in this section, the following words shall, unless the context otherwise requires, have the following meanings:

“Primarily”, more than 50 percent.

“Research and development costs”, in-house research expenses within the meaning of section 41(b)(2) of the Code.

“User fees”, the monetary amount actually paid by a certified life sciences project to the U.S.F.D.A. that constitutes the fee due upon the submission of a human drug application or supplement pursuant to 21 U.S.C. § 379h(a)(1) for a human drug, the research and development costs of which, were primarily incurred in the commonwealth.

“U.S.F.D.A.”, the United States Food and Drug Administration.

(b) Except as otherwise limited by paragraph (e), there shall be allowed to any certified life sciences project, as defined by section 63 of chapter 23A, as a refundable credit against the tax liability imposed under this chapter an amount equal to 100 percent of the cost of user fees paid by such certified life sciences project, to the extent provided in a certification pursuant to section 63 of chapter 23A.

(c) A certified life sciences project shall claim the credit in the taxable year in which its application for the licensure of an establishment to manufacture the human drug in the commonwealth is approved by the U.S.F.D.A.

(d) A credit allowed under this section may be taken only after the taxpayer completes an application signed by an authorized representative of the applicant, and files the application with the department of business development within 1 year after the initial project certification pursuant to section 63 of chapter 23A.

(e) The credit allowed may reduce the excise due under section 32(b), or 39(b). The credit allowed to a certified life sciences project is not subject to the provisions of section 32C. In the event that such credit allowed to a certified life sciences project exceeds the excise otherwise due under section 32(b) or section 39(b) of chapter 63, the balance of that credit shall be refundable to the taxpayer for the taxable year in which the credit is claimed.

If a certified life sciences project files as a member of a combined group and applies its excess credit against the excise of another group member, then the credit as applied to corporations other than such certified life sciences project is not subject to the provisions of section 32C and may reduce to zero the excise due under section 32(b), or 39(b) and under any act in addition thereto. In the event that such credit allowed to a certified life sciences project that is applied against the excise liability of such other corporations exceeds the excise otherwise due to such corporations under chapter 63, the balance of that credit shall be refundable to the taxpayer for the taxable year in which the credit is claimed.

(f) For purposes of section 30, the deduction from gross income that may be taken with respect to any expenditures qualifying for the credit under this section is disallowed to the extent of the credit.

(g) Only user fees paid by a certified life sciences project to the U.S.F.D.A. on or after the effective date of this section are eligible for the credit.

SECTION 18. Subsection (f) of section 38 of chapter 63 of the General Laws is hereby amended by adding after subparagraph (5) the following subparagraph:-

(6) To the extent provided in a certification pursuant to section 63 of chapter 23A, a certified life sciences project, as defined in section 63 of chapter 23A, is deemed to be taxable in the state of the purchaser if the property of the project is manufactured in the commonwealth and delivered or shipped to a purchaser in another state.

SECTION 19. Section 38C of chapter 63 of the General Laws is hereby amended by adding the following sentence at the end thereof:-

A certified life sciences project shall, to the extent provided in a certification pursuant to section 63 of chapter 23A, be deemed to be a research and development corporation for purposes of exemptions under chapters 64H and 64I.

SECTION 20. Section 38M of chapter 63 of the General Laws is hereby amended by adding after subsection (i) the following subsection:-

(j) To the extent provided in a certification pursuant to section 63 of chapter 23A, in the event that the credit allowed under this section is allowed with respect to a certified life sciences project and the credit that may be claimed by a taxpayer under this section exceeds the amount that may otherwise be allowed under this section for a taxable year, the balance of that credit attributable to a certified life sciences project shall, at the option of the taxpayer and to the extent provided in such certification, be refundable to the taxpayer for the taxable year. If such credit balance is refunded to the taxpayer, then the credit carryover provisions of subsection (f) shall not apply.

SECTION 21. Chapter 63 of the General Laws is hereby amended by adding after section 38T the following section:-

Chapter 63: Section 38U. Life Sciences Investment Incentive Tax Credit

Section 38U. (a) A corporation subject to the excise imposed under this chapter, which operates a certified life sciences project as defined in section 63 of chapter 23A, may take a credit against the excise imposed by this chapter, to the extent provided in a certification pursuant to section 63 of chapter 23A, in an amount equal to 10 percent of the cost of any qualifying property used exclusively in the commonwealth in such project. Qualifying property shall be tangible personal property and other tangible property including buildings and structural components of buildings acquired by purchase, as defined under Section 179(d) of the Code, as amended and in effect for the taxable year, but not including property that is taxable under Chapter 60A, provided, however, that such property must be depreciable under section 167 of the Code and have a useful life of 4 years or more. If such property is disposed of or ceases to be in qualified use before the end of its useful life or before the end of the year in which the credit is to be taken, the recapture and related provisions of subsection (e) of section 31A of chapter 63 shall apply.

A credit is allowed under this section only to the extent that the taxpayer files the application with the department of business development, in a form as may be determined by the department, within 1 year after the initial project certification pursuant to section 63 of chapter 23A.

The credit allowed under this section may be taken by an eligible corporation; provided, however, that neither credit allowed by section 31A or section 31H is taken by such corporation;

and provided further that the credit allowed by section 38N shall not be taken except to such extent, not to exceed 2 percent of the cost of any qualifying property, as may be provided in a certification pursuant to section 63 of chapter 23A.

The department may certify that property eligible for the credit is a certified life sciences project as defined in section 63 of chapter 23A, and that the certified life sciences project reasonably satisfies the return on investment projections specified in the original project proposal. Based upon the information provided in the application and its own independent investigation, the department shall determine whether the certified life sciences project is in compliance with the definition of certified life sciences project and whether the project has a reasonable chance of completing the return on investment as advanced in the initial proposal as certified by the department. If the department determines that the certified life sciences project is no longer in compliance, then the secretary of housing and economic development shall revoke certification of the project as provided in section 63 of chapter 23A and shall provide notification of decertification to the commissioner of revenue. Nothing in this section shall limit the authority of the commissioner to make adjustments to a corporation's liability upon audit. Nothing in this section shall limit any other legal remedies available to the commissioner of revenue or the commonwealth against the life sciences sector business.

(b) The credit allowed by this section shall not be subject to the provision of section 32C.

(c) In the case of a corporation that is subject to a minimum excise under any provision of this chapter, the amount of the credit allowed by this section shall not reduce the excise to an amount less than such minimum excise.

(d) Any corporation entitled to a credit under this section for any taxable year may carry over and apply to its excise for any 1 or more of the next succeeding 10 taxable years, the portion, as reduced from year to year, of those credits which were not allowed by paragraph (c) or which exceed the excise for the taxable year; provided, however, that in no event shall the corporation apply the credit to its excise for any taxable year beginning more than 10 years after the certified life sciences project ceases to qualify as such under the provisions of chapter 23A.

(e) In the case of corporations filing a combined return of income under section 32B, a credit generated by an individual member corporation under the provisions of this section shall first be applied against the separately determined excise attributable to that member, subject to the limitations of paragraph (c). A member corporation with an excess credit may apply its excess credit against the excise of another group member, to the extent that such other member corporation can use additional credits under the limitation of paragraph (c). Unused, unexpired credits generated by member corporations shall be carried over from year to year by the individual corporation that generated the credit.

(f) The commissioner of revenue shall promulgate such rules and regulations as are necessary to implement the provisions of this section. Such rules and regulations may provide the adjustment of intercompany prices and elimination of intercompany transactions to ensure that all amounts upon which the credit is based reasonably reflect fair market value. In addition, such rules and regulations shall include provisions to prevent the generation of multiple credits with respect to the same property.

(g) In the event that such credit allowed to a certified life sciences project under this section, or such credit as may be allowed under section 38N of this chapter as limited in this subsection,

exceeds the excise otherwise due under chapter 63, the balance of such credit shall, at the option of the taxpayer, be refundable to the taxpayer for the taxable year in which qualified property giving rise to that credit is placed in service. If such credit balance is refunded to the taxpayer, then the credit carryover provisions of paragraph (d), and of section 38N of this chapter, do not apply.

SECTION 22. Section 42B of chapter 63 of the General Laws is hereby amended by adding the following sentence at the end thereof:-

A certified life sciences project shall, to the extent provided in a certification pursuant to section 63 of chapter 23A, be deemed to be a research and development corporation for purposes of exemptions under chapters 64H and 64I.

SECTION 23. Section 6 of chapter 64H of the General Laws is hereby amended by adding after subsection (ww) the following subsection:-

(xx) For purposes of this paragraph the term “utility support systems” means all areas of utility support systems including, but not limited to, site, civil, mechanical, electrical and plumbing systems.

Sales of tangible personal property purchased for a certified life sciences project, as defined by section 63 of chapter 23A, for use in connection with the construction, alteration, remodeling, repair, or remediation of the research, development or manufacturing facilities and the utility support systems provided that such facilities and utility support systems are constructed, altered remodeled, repaired or remediated in furtherance of a certified life sciences project. This section

shall apply only to the extent provided in a certification pursuant to section 63 of chapter 23A.

Such purchases made on or after the effective date of this section shall only be eligible for this exemption.